G. R. S. 59]

GENERAL AND REVENUE SECRETARIAT.

P-6

1909
(Legislation)

File No. 41-09

Serial Nos. nil

Papers Filed.

Month June 1910

SUBJECT.

Liability to pay income tax, of Branch firms in the Mysore State whose head-offices are situate outside the State.

PREVIOUS REFERENCES.	LATER REFERENCES.
S. R 189-09	

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1909-10

GENERAL AND REVENUE SECRETARIAT.

(Legis)

NOTES.

Legis File No. 41/09

FILE HEADING.

Liability to pay income tax of Branch firms in Mysore State whose head-offices are situate outside the State

From

No. Dated Received

Diary No. Enclos. Spare Copies Serial No.

BRIEF ABSTRACT OF LETTER.

NOTES AND ORDERS.

P.T.O.

NOTES—First sheet

GPB—30,000—3-4-07.

G. R. S. 12]
General and Revenue Secretariat.

Legis File No. 41 of 1909-10

Serial No.

Copy of the II councillor's note in file S.R. 189 of 1909-10 re the Statistics of the income of the branches of certain Bombay firms in the Kadur District (Vide pages 384 of S.R. 189 of 1909-10 Sls (Sl).

"The draft is in accordance with "precedent and is approved

"I presume that the general "order about routine correspondence" "being directly allowed is approved by "the Residency."

"By the way (especially as having "a bearing on our C.P.C. provn about "Civil courts executing a Collrs order "under the Income Tax Act) I should "like to have a note from the Judicial "or Legislative Dept^t whether firms "having branches here are liable" "to pay income tax in British India "I believe the English courts have "decided in the affirmative. What "is the doctrine supported by recog "nised authorities on International "law? This subject may be treated "as a separate one from this reference

Init^d H.V.N.
13/5/10

NOTE—Contn. sheet.

GPB—55,000—27-4-09

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Ind. P. Under sec 11 of the British Indian Income tax Act. II of 1886. it would seem that a Company is liable to pay income tax only with regard to the net profits made by a Company during the year in B. India. It does not appear therefore how any information regarding the profits earned by a Company in B. India from its branches outside that province can be of any use to a British office.

2 It also appears from Westlake's Private International law and also of Rattigan's that a Company incorporated in England Scotland or Ireland is liable to pay income tax in those Countries, whether the profits are earned by the Companies in those Countries or not. and that a branch office, which has no head office in there, and incorporated elsewhere, would be liable to pay an income tax in regard to the profits earned in the course of business transacted in those Countries.

Ind. P. for orders with reference.

20/5/10 SW 28/5/10 SW 28/5/10 The definition of "income" given in the British Indian Act includes profits received in British India, though

No. please see the definition "income" in the Income Tax Act and Part II of the 2nd Schedule 20/5/10

NOTE—Contn. sheet.

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then accrual might have been elsewhere.

Sec 4 of the Act referred to in the Office note has reference to the mode of assessment and collection of profits income tax on profits accruing in British India. The procedure does not seem to refer to profits only received in B. India

5. Similarly the rates of tax are different according as the income has arisen in British India or Elsewhere Please Compare Part II with Part IV of the II Schedule

6. There seems to be a reason for this difference, because the whole income is taxable in British India if it has arisen in British India whereas only the portion of the income received in B. India is taxable in cases where it has a foreign origin. Please see Dicey's Conflict of Laws p. 777 (para 3)

The same principle is recognised in Private International Law. Please See pp 766 to 777 particularly pp 775 to 777

28/8/10.

guide)

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General and Revenue Secretariat.

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3938.	§ The Br. Govt can set a tax only on income received in Br. India. I do not see therefore why the Bombay Collector should require any assistance from one of our D C's. However this may be considered if there is any application for further action.

Bom. Gazetteer
(1) Bom's Compilation
(2) Rs. Papers P. I. Laws
(3) Westlake, P. I. Laws
(4) Act II of 1886

1/6/10.

31/5/10

Note & file

1/6/10.

Legs 1/6

10 To Br II for note and return

H Bris to 1/6 2/6/10 1/6

S. R. 2/6/10

11 Noted and returned

2/6/10

NOTE—Contn. sheet.

GPB—55,000—27-4-09